

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS ESTABLISHING NORTH KILLEEN TAX ABATEMENT GUIDELINES AND CRITERIA FOR THE ENCOURAGEMENT OF REVITALIZATION AND ECONOMIC GROWTH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the Killeen City Council appointed a Comprehensive Plan and Northside Subcommittee made up of three City Council members and three Planning and Zoning Commissioners to discuss and make recommendations regarding the revitalization of North Killeen;

WHEREAS, the Comprehensive Plan and Northside Redevelopment Subcommittee recommends the adoption of the North Killeen Tax Abatement Guidelines and Criteria;

WHEREAS, the City Council at said hearing duly considered said recommendation, and the City Council being of the majority opinion that the North Killeen Tax Abatement Guidelines and Criteria should be approved;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION I. That the City of Killeen adopts the following North Killeen Tax Abatement Guidelines and Criteria:

SECTION II.

GUIDELINES AND CRITERIA

For Granting Tax Abatement in the North Killeen Revitalization Area

Designated by the City of Killeen, Texas

Under Tax Code, Chapter 312

I. PURPOSE

The designation of a Tax Abatement is allowed if it is reasonably likely to contribute to the retention or expansion of employment or will attract investment that would be a benefit to the property and contribute to the economic vitality of North Killeen. The North Killeen Revitalization Area (NKRA) is outlined in Attachment A.

II. DEFINITIONS

- A. "Abatement" means the partial exemption from ad valorem taxes of certain real property in the NKRA designated by the City of Killeen for economic development purposes.
- B. "Agreement" means a written contractual agreement between a property owner and/or lessee and the City of Killeen, Texas.
- C. "Base year value" means the assessed value of eligible property on January 1st of the year of the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1st but before the execution of the agreement.
- D. "Commercial Properties" means property that is used primarily for business activities.
- E. "Dangerous Building" means any building or structure deemed dangerous and unsafe by the Construction Board of Appeals.

- F. "Deferred Maintenance" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology.
- G. "Eligible Facilities" means those new or existing buildings, or expanded or modernized existing buildings and structures, including fixed machinery and equipment.
- H. "Expansion" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.
- I. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- J. "Modernization" means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment.
- K. "Multifamily" means a building designed for or occupied exclusively by two (2) or more families i.e. duplexes, fourplexes, apartment buildings.
- L. "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- M. "Owner" means the individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; including a Lessor or Lessee if responsible for payment of ad valorem taxes.

- N. "Productive Life" means the number of years a property improvement is expected to be in service for a facility.

III. ABATEMENT AUTHORIZED

- A. Eligible Facilities. Commercial properties and multifamily units are eligible for tax abatement. Upon application, eligible facilities shall be considered for Abatement as hereinafter provided.
- B. Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between the City of Killeen and the property owner or lessee, subject to such limitation as the City of Killeen may require.
- C. New and Existing Facilities. Abatement may be granted for existing or new facilities and for improvements to existing facilities for purposes of economic development.
- D. Eligible Property Improvements. Includes improvements made to the buildings, structures, fixed machinery and equipment, site improvements, related fixed improvements and deferred or required maintenance necessary to bring the property up to code and for the operation and administration of the facility.
- E. Ineligible Property. The following types of property shall remain fully taxable and ineligible for Tax Abatement: single family residential dwellings, land, inventory, supplies, tools, furnishings and other forms of movable personal property, property which has a productive life of less than 10 years and property owned or leased by a member of the city's governing body or its planning and zoning commission.

F. Owned/Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with both the lessor and the lessee.

G. Standards for Tax Abatement.

1. Minimum Standards – Objective Criteria. The City of Killeen will consider tax abatement only on eligible facilities and property value which meet the following criteria:

a. The project involves a minimum increase in property value of one hundred and fifty percent (150%) for construction of a new facility, or twenty-five percent (25%) for expansion of an existing facility, with an overall new investment of at least \$25,000 in taxable assets; and

b. Any commercial project will create or allow to be retained at least one (1) job within the NKRA, which would not otherwise be created or retained. Multi-family projects shall not be required to meet this minimum standard.

2. Additional Standards for Evaluating Applicants – Subjective Criteria. The following factors, among others, where applicable, shall be considered in determining the percentage of value to be abated and the duration of the Tax Abatement in accordance with the Schedule of Tax Abatement in Section III J:

a. whether the project makes a substantial contribution to redevelopment efforts, preservation efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics;

- b. whether the project has high visibility, image impact, or is of a significantly higher level of development quality;
- c. if the project involves new or infill construction, whether the project improves property that might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc;
- d. whether the project can serve as a prototype and catalyst for other development of a higher standard;
- e. whether the project stimulates desired concentrations of employment or commercial activity;
- f. value of land and existing improvements, if any;
- g. type and value of proposed improvements;
- h. productive life of proposed improvements;
- i. amount of local payroll to be created;
- j. whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdictions;
- k. amount of local sales taxes to be generated directly;
- l. amount that the property tax base valuation will be increased after the term of abatement;
- m. the costs to be incurred by the City of Killeen to provide facilities or services directly resulting from the new improvements;
- n. the amount of ad valorem taxes to be paid by the City of Killeen during the Abatement period considering (a) the existing values, (b) the percentage of new value abated, and (c) the Abatement period;

- o. the population growth of the City of Killeen that occurs directly as a result of new improvements;
 - p. the types of value of public improvements, if any, to be constructed and paid for by the applicant seeking abatement;
 - q. the extent to which the proposed improvements compete with existing businesses;
 - r. the impact, whether positive or negative, on the business opportunities of existing businesses;
 - s. the attraction of other new business and/or housing development in the area;
 - t. the overall compatibility with the City of Killeen's zoning and subdivision regulations and the Comprehensive Plan;
 - u. whether the project is environmentally compatible, with no appreciable negative impact on quality-of-life perceptions;
 - v. if the project involves new or infill construction, whether or not the proposed construction and its siting are compatible with the distinctive character of the area and buildings; and
 - w. whether the project has a positive impact on the community by improving the aesthetic appearance of the neighborhood, enhancing functional or visual characteristics of the neighborhood, or increasing the amount of open space (landscaping).
3. Each eligible facility shall be reviewed on its merits utilizing the factors provided in #1 and #2 above. After such review and full evaluation, abatement may be denied entirely or may be granted to the extent

deemed appropriate in accordance with the Schedule of Tax Abatement in Section III J.

H. Denial of Abatement. A tax abatement agreement shall be denied if it is determined that:

1. there would be a substantial adverse effect on the provision of government service or tax base;
2. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
3. the project involves alteration of a historic building in a way that is incompatible with the Secretary of the Interior's Standards for Rehabilitation;
4. the project involves the demolition of a building not otherwise identified as a dangerous building;
5. the project would have a detrimental effect on the distinctive character of the historic district setting and its buildings;
6. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
7. approval of an abatement agreement would violate State or Federal laws or regulations; or
8. there exists any other valid reason for denial deemed appropriate by the City Council of the City of Killeen.

I. Taxability. From the date of the execution of the Abatement Agreement period, taxes shall be payable as follows:

1. the value of ineligible property as provided in Section III E shall be fully

taxable;

2. the base year value of existing eligible property as determined each year shall be fully taxable;
3. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Schedule of Tax Abatement in Section III J; and
4. the additional value of new, eligible property shall be fully taxable after the end of the Abatement period as described in the agreement.

J. Schedule of Tax Abatement. The term and percentage of tax abatement shall be determined by the sum of points earned in each of the following categories. The parties may agree to a lesser time period or percentage of abatement than would otherwise be entitled under this point-factor analysis.

North Killeen Revitalization Area

Category I. Objective Criterion - - Dollar Value of Improvements

<i>\$25,000 - \$74,999</i>	<i>3 points</i>
<i>\$75,000 - \$149,999</i>	<i>6 points</i>
<i>> \$150,000</i>	<i>9 points</i>

Category II. Objective Criterion - - Number of Jobs Created or Retained (that would not otherwise be created or retained.)

<i>1 – 5 jobs</i>	<i>3 points</i>
<i>> 5 jobs</i>	<i>6 points</i>

Category III. Subjective Criterion - - Positive Impact on Community

<i>No significant Positive Impact</i>	<i>0 points</i>
<i>Desirable Positive Impact</i>	<i>6 points</i>
<i>Exceptional Positive Impact</i>	<i>9 points</i>

SCHEDULE

<i>Points</i>	<i>Abatement</i>	<i>Sum of Years of</i>	<i>% Abatement</i>
<i><6</i>		<i>-</i>	<i>-</i>
<i>6 – 9</i>		<i>5</i>	<i>50%</i>
<i>10 – 17</i>		<i>5</i>	<i>75%</i>
<i>> 17</i>		<i>5</i>	<i>100%</i>

IV. APPLICATION

- A. Any present or potential owner of taxable property in Killeen, Texas, or its extraterritorial jurisdiction, may request tax abatement for Eligible Facilities by filing a written request with the City Manager of the City of Killeen. After processing the application, the City Manager shall make a recommendation to the City Council of the City of Killeen for final disposition.
- B. The application shall consist of:
 1. a completed application form which shall provide detailed information on the items described in Section III G above;
 2. a detailed site plan or appropriate plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description;
 3. a time schedule for undertaking and completing the planned improvements;

4. in the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, for the tax year immediately preceding the application;
 5. such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant; and
 6. if the project improvements are to a historic building, a detailed plan demonstrating how the proposed improvements conform to the Secretary of the Interior's Standards for Rehabilitation.
- C. The City of Killeen, no more than 45 days after receipt of the completed application, shall by resolution either approve or disapprove the application for tax abatement at a regularly scheduled meeting of the City Council. The City of Killeen shall notify the applicant in writing of approval or disapproval.
- D. If the application is approved, the City of Killeen shall give notice as provided by the Texas Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the execution of a Tax Abatement Agreement.

V. AGREEMENT

- A. Upon approval of an application, the City of Killeen shall formally execute an agreement with the owner or lessee, as the case may be, of the eligible facility, which agreement shall include, but not be limited to:
1. a list of the kind, number, and location of all proposed improvements on the property;
 2. a time schedule for undertaking and completing the planned

improvements;

3. a description of the proposed use of the facility;
 4. a detailed site plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description of the facility;
 5. the estimated value of eligible property and the base year value of the Facility;
 6. the percent of value to be abated each year as provided in Section III J;
 7. the commencement date and the termination date of abatement;
 8. a limitation on the uses of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period that property tax abatement is in effect;
 9. an estimate of the number of jobs to be created or retained over the abatement period if non-residential project;
 10. provision for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement, as provided in Section VI;
 11. provisions for administration as provided in Section VII, including a provision for access to and inspection of the property by City employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreement;
 12. provisions for assignment of the tax abatement, as provided in Section VIII;
- B. Such agreement shall normally be executed within sixty (60) days after

approval of an application by the City of Killeen.

- C. Nothing contained within these Guidelines and Criteria shall preclude the City Council from entering into a tax abatement/economic incentive agreement that takes full advantage of the flexibility contained in the Local Government Code, the Government Code or the Tax Code, as amended.

VI. RECAPTURE

- A. In the event that the owner:
 - 1. allows ad valorem taxes owed the City of Killeen to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest or violates any of the terms and conditions of the Abatement Agreement; and fails to cure during the Cure Period hereinafter described, the Agreement then may be terminated, and the owner shall repay all taxes previously abated by virtue of the Agreement to the City of Killeen within thirty (30) days of the termination.
 - 2. Fails to comply with Tax Code Chapter 312, as amended, City of Killeen may recapture all or a portion of property tax revenue lost as a result of the agreement, and payment of penalty or interest, or both, on that recapture property tax.
- B. Should the City of Killeen determine that the owner is in default according to the terms and conditions of its Agreement, the City of Killeen shall notify the owner of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

VII. ADMINISTRATION

- A. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real property. Each year, the owner receiving tax abatement shall furnish the Appraiser with such information as may be necessary for the assessment. Once value has been established, the Chief Appraiser will notify the City of Killeen of the amount of the assessment.
- B. The Abatement Agreement shall stipulate that employees and/or designated representatives of the City of Killeen will have access to the property during the term of the Abatement to inspect the eligible facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the owner and in accordance with its safety standards.
- C. Upon completion of construction, the designated representative of the City of Killeen shall annually evaluate each Facility receiving Abatement to insure compliance with the Agreement, and a formal report shall then be made to the City Council of Killeen regarding the findings of the evaluation.

VIII. ASSIGNMENT

Abatement may be transferred and assigned by the current owner to a new owner of the same Facility upon the approval by resolution of the City of Killeen, subject to the financial capacity of the assignee and provided that all conditions and obligations in the

Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City of Killeen. No assignment or transfer shall be approved if the current owner, the new owner, or the current lessee or new lessee is liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

IX. SUNSET PROVISION

Pursuant to Tax Code Section § 312.002 (C), these guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by three-quarters vote of the City Council of the City of Killeen, at which time all Tax Abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria may be modified, renewed or eliminated.

SECTION III. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION IV. That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION V. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION VI. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 22nd day of September 2015, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED:

Scott Cospers, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Ord. #15-__